

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

-----)	
IN RE: NATIONAL)	MDL No. 2804
PRESCRIPTION OPIATE)	
LITIGATION)	Case No.
-----)	1:17-MD-2804
)	
THIS DOCUMENT RELATES TO)	Hon. Dan A. Polster
ALL CASES)	
-----)	

HIGHLY CONFIDENTIAL
SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

VIDEOTAPED DEPOSITION OF

TASHA POLSTER

January 23, 2019

Chicago, Illinois

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

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<p style="text-align: right;">Page 134</p> <p>1 didn't have the technical know-how or because there 2 wasn't an interface established for you to just 3 kind of click on what you wanted to pull? 4 A. Both. 5 Q. All right. So, there was ultimately a 6 dashboard that was created for Pharmaceutical 7 Integrity, correct? 8 A. I don't remember dashboard. I know 9 that -- I mean -- and this was a long time ago. I 10 remember working with Ray and having him pull data 11 and helping me understand the data. But when you 12 say dashboard, I don't remember going in and 13 looking at a dashboard or anything like that. 14 Q. He references even dashboard here, "a 15 quick review of the dashboard." 16 Do you see that? 17 A. Yes. 18 Q. All right. What would you call it if 19 you pull it up and there were a lot of graphs and 20 charts organizing data like quantities for 21 hydrocodone for the store? 22 A. Again, I don't remember this exact pull. 23 I don't remember what he gave me. But I never went 24 into my shared drive, ever. My people, they messed</p>	<p style="text-align: right;">Page 136</p> <p>1 between you and Mr. Mills, correct? 2 A. Yes. 3 Q. And it's dated February 14, 2013, 4 correct? 5 A. Yes. 6 Q. And another reference to Tableau in the 7 third section down, correct? 8 A. Yep. 9 Q. And Mr. Mills -- and what was Mr. Mills' 10 role within Pharmaceutical Integrity? 11 A. He was an analyst that reported up into 12 one of the managers. 13 Q. So, more -- more of a data guy? 14 A. Yeah. 15 Q. And "This week I gained access to the 16 queries Ray uses to create the Tableau tables." 17 Do you see that? 18 A. Yep. 19 Q. "I just need Tableau and we will be able 20 to access" -- "and we will be able to create the 21 tables as needed basis without going to Ray." 22 That would make sense, right? 23 A. Yep. 24 Q. Your group should be able to do that</p>
<p style="text-align: right;">Page 135</p> <p>1 with the shared drive. I did not. If I needed 2 something, I asked them to send it to me directly. 3 Q. Okay. Who is somebody on your staff 4 that -- that you felt like had a good command of 5 the Tableau workbook and knew what information was 6 there? 7 A. We didn't use Tableau much past 2013. I 8 mean, after -- after Ray left his job and went to 9 whatever job he went to, I relied pretty heavily on 10 Ed Bratton to put together graphs and charts for 11 me. But I don't remember if he used Tableau or if 12 he used some other form. 13 Q. And Steve Mills was a member of your 14 group too, correct? 15 A. Yes, he was. 16 Q. Hand you what I will mark as -- it's 17 P-WAG-2619. 18 (WHEREUPON, a certain document was 19 marked as Walgreens-Polster Exhibit 20 No. 7: 4/19/13 e-mail with 21 attachment; WAGMDL00245768 - 22 00245769.) 23 BY MR. MOUGEY: 24 Q. Do you see this is another internal memo</p>	<p style="text-align: right;">Page 137</p> <p>1 internally as you were building out and the process 2 was being able to build out within your own group, 3 correct? 4 A. Yes. 5 Q. Bullet, the next bullet under "Tableau 6 Reporting Dashboards, Rx checklist data is ready to 7 be deployed to the field. We just need to agree on 8 a day to send out the reports." 9 Do you have an understanding what "Rx 10 checklist data" is? 11 A. I don't remember what that was. 12 Q. Let's go to the "Cardinal SOM." 13 A. Okay. 14 Q. A part of your job description was third 15 party -- I can't remember the exact terminology. 16 A. Third party operations. 17 Q. Third party operations. Did that 18 include overseeing Walgreens' relationships with 19 third-party vendors who were distributors? 20 A. No. 21 Q. Okay. What was that? 22 A. Third party operations is the billing of 23 insurance cards. So, when a patient comes in and 24 brings in insurance -- it has nothing to do with</p>

<p style="text-align: right;">Page 138</p> <p>1 Pharmacy Integrity. Completely different</p> <p>2 workstream entirely.</p> <p>3 So, when you or a patient comes in with</p> <p>4 your insurance card from Cigna or whatever, hand it</p> <p>5 to the pharmacy. Pharmacy has to enter in the data</p> <p>6 and then you have a -- when the prescription gets</p> <p>7 processed, the co-pay comes out, and we ensure that</p> <p>8 it's billed correctly.</p> <p>9 Q. If you had --</p> <p>10 A. Patients are taken care of.</p> <p>11 Q. Sorry. Didn't mean to interrupt you.</p> <p>12 If you had -- do you have an estimate in</p> <p>13 2013 of how much of your time went to</p> <p>14 Pharmaceutical Integrity and how much of your time</p> <p>15 went to the third party operations you just</p> <p>16 described?</p> <p>17 A. The majority of the work -- of the time</p> <p>18 went to Pharmaceutical Integrity because it was new</p> <p>19 and just getting up to speed and I'm still hiring</p> <p>20 people and making sure they know what to do.</p> <p>21 Q. Did your pay come from two different</p> <p>22 groups within Walgreens?</p> <p>23 A. My paycheck?</p> <p>24 Q. Your paycheck.</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. ANDA was another, correct?</p> <p>2 A. I don't remember when ANDA came on</p> <p>3 board, but they are a distributor for us now.</p> <p>4 Q. Yes, ma'am. And ABC as well, correct?</p> <p>5 A. Yes.</p> <p>6 Q. AmerisourceBergen. Now, we're going to</p> <p>7 get into the specifics of the suspicious order</p> <p>8 monitoring policy, but while we are on this doc,</p> <p>9 just bear with me for a second.</p> <p>10 You've mentioned and just in the last</p> <p>11 series of questions we talked about the number of</p> <p>12 orders that your team was reviewing, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And if an order exceeded a certain</p> <p>15 threshold, Walgreens reduced that order, correct?</p> <p>16 A. No, we didn't reduce it.</p> <p>17 MS. FIX MEYER: Objection.</p> <p>18 BY MR. MOUGEY:</p> <p>19 Q. That you canceled the order and told the</p> <p>20 pharmacy that it had to be -- couldn't be any</p> <p>21 higher than X, correct?</p> <p>22 MR. HOUTZ: Object to form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. Not exactly.</p>
<p style="text-align: right;">Page 139</p> <p>1 A. No.</p> <p>2 Q. Was it split between budget items</p> <p>3 between two different groups?</p> <p>4 A. Oh. No.</p> <p>5 Q. So, when you say majority of your time,</p> <p>6 is that 55, 60% went to Pharmaceutical Integrity?</p> <p>7 A. I'd say probably 75%.</p> <p>8 Q. Was that consistent all the way through</p> <p>9 '13 or did it get -- lighten up?</p> <p>10 A. No, it stayed pretty consistent. A</p> <p>11 lot -- the majority of the time that I spent was on</p> <p>12 Pharmaceutical Integrity because the third party</p> <p>13 operations team was already up and running and I</p> <p>14 had leaders on that team.</p> <p>15 Q. So, let's just go down to the Cardinal</p> <p>16 entry. I just want to understand.</p> <p>17 A. Sure.</p> <p>18 Q. You would agree that in addition to</p> <p>19 Walgreens as a distributor, Walgreens also used the</p> <p>20 services of other third party distributors,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Cardinal was one of them, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 141</p> <p>1 BY MR. MOUGEY:</p> <p>2 Q. You just tell me what you think you did.</p> <p>3 A. Well, I can tell you what I know I did.</p> <p>4 Q. Go ahead.</p> <p>5 A. So, when the order exceeded the limit,</p> <p>6 the store was not shipped product. And then we</p> <p>7 developed a tool to let the stores know if they</p> <p>8 were reaching their ceiling, and we gave them</p> <p>9 visibility into the number of bottles that they</p> <p>10 would be able to order but they couldn't go over</p> <p>11 the order unless they filled out the controlled</p> <p>12 substance order form that had all the proper</p> <p>13 documentation as to why they needed it.</p> <p>14 Q. Yes, ma'am. I'm sure they did.</p> <p>15 So, once you told them what the</p> <p>16 threshold was and told them what they could order,</p> <p>17 then they ordered up to that amount, correct, and</p> <p>18 that's called -- that's called a threshold?</p> <p>19 MR. HOUTZ: Object to form.</p> <p>20 MS. FIX MEYER: Objection; form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. In some cases they used it. In a lot of</p> <p>23 cases they didn't. It took a long time to get them</p> <p>24 trained.</p>

<p style="text-align: right;">Page 142</p> <p>1 BY MR. MOUGEY:</p> <p>2 Q. I'm sure it did. So, under "Cardinal</p> <p>3 SOM," that stands for suspicious order monitoring,</p> <p>4 correct?</p> <p>5 MS. FIX MEYER: Object to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Yes.</p> <p>8 BY MR. MOUGEY:</p> <p>9 Q. On the third bullet down, "About 60% of</p> <p>10 these orders are legitimate orders that should be</p> <p>11 canceled."</p> <p>12 The last sentence says, "These are</p> <p>13 stores who are over their corporate ceiling." And</p> <p>14 corporate ceiling is Walgreens' corporate ceiling,</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. Means that they weren't allowed to order</p> <p>18 any more, correct?</p> <p>19 A. Without proper documentation, yes.</p> <p>20 Q. And -- but "they are going to Cardinal</p> <p>21 to request the product."</p> <p>22 Do you see that?</p> <p>23 A. Yep.</p> <p>24 MS. FIX MEYER: Objection to form.</p>	<p style="text-align: right;">Page 144</p> <p>1 telling you the truth. I mean, you got to take</p> <p>2 care of the patients. And so --</p> <p>3 BY MR. MOUGEY:</p> <p>4 Q. The question I asked you was simple.</p> <p>5 Does the store have the ability to go to</p> <p>6 another vendor and order controlled substances</p> <p>7 after they hit the ceiling at Walgreens?</p> <p>8 MR. HOUTZ: Next time please let her finish</p> <p>9 her answer before you interrupt.</p> <p>10 MR. MOUGEY: The next time I'd like to have an</p> <p>11 answer to the question that I asked.</p> <p>12 BY MR. MOUGEY:</p> <p>13 Q. The vendors --</p> <p>14 MR. HOUTZ: If you allow her to finish your</p> <p>15 answer, you may get an answer.</p> <p>16 BY MR. MOUGEY:</p> <p>17 Q. The vendors -- I'm sorry.</p> <p>18 The pharmacies are allowed to order</p> <p>19 additional controlled substance, highly addictive,</p> <p>20 like OxyContin that we talked about earlier, once</p> <p>21 they hit the ceiling, that store can go to Cardinal</p> <p>22 and order additional oxycodone, correct?</p> <p>23 MS. FIX MEYER: Objection; form, foundation.</p> <p>24 MR. HOUTZ: Same objection.</p>
<p style="text-align: right;">Page 143</p> <p>1 BY MR. MOUGEY:</p> <p>2 Q. So, Walgreens' system, if a store</p> <p>3 exceeded the ceiling, they were told no more</p> <p>4 Schedule II or Schedule III controlled substances</p> <p>5 from us, correct, Walgreens?</p> <p>6 A. They didn't know. So --</p> <p>7 Q. They knew they couldn't order any more,</p> <p>8 correct?</p> <p>9 A. They wouldn't know because -- they</p> <p>10 wouldn't know until the order was due to show up.</p> <p>11 Q. And it didn't show up and they knew they</p> <p>12 didn't get it, correct?</p> <p>13 A. Right, but they didn't know why.</p> <p>14 Q. So, they knew they didn't get the order</p> <p>15 from Walgreens, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And they didn't know why, but they</p> <p>18 didn't get it from Walgreens but then Walgreens</p> <p>19 allowed up until a period in time for that store to</p> <p>20 put it in an order from another vendor, correct?</p> <p>21 MR. HOUTZ: Object to form and foundation.</p> <p>22 BY THE WITNESS:</p> <p>23 A. Walgreens -- any pharmacy has secondary</p> <p>24 wholesalers if the one wholesaler -- I'm just</p>	<p style="text-align: right;">Page 145</p> <p>1 BY MR. MOUGEY:</p> <p>2 Q. Yes or no.</p> <p>3 A. I'm not going to yes or no answer that.</p> <p>4 I'm going to tell you what happened.</p> <p>5 Q. No, I want to know if they have the</p> <p>6 ability. That's all I asked.</p> <p>7 A. Yes.</p> <p>8 Q. Do they have the ability to order --</p> <p>9 A. Yes.</p> <p>10 Q. -- more oxycodone from another vendor</p> <p>11 like Cardinal after Walgreens' ceiling has been</p> <p>12 hit?</p> <p>13 MS. FIX MEYER: Objection; form, foundation.</p> <p>14 BY THE WITNESS:</p> <p>15 A. On this date, yes.</p> <p>16 BY MR. MOUGEY:</p> <p>17 Q. Yes. Thank you.</p> <p>18 MR. MOUGEY: Les, if it's okay with you, it's</p> <p>19 a good stopping point for me for lunch.</p> <p>20 MR. HOUTZ: Sure.</p> <p>21 MR. MOUGEY: I am planning on using the seven</p> <p>22 hours today. So, I just want to give everybody a</p> <p>23 heads-up as we go through. I'm happy to take a</p> <p>24 shorter or longer lunch as you and Ms. Polster</p>

<p style="text-align: right;">Page 146</p> <p>1 would like with that.</p> <p>2 MR. HOUTZ: Let's do the 45 minutes lunch.</p> <p>3 MR. MOUGEY: 45? How much time have we used?</p> <p>4 THE VIDEOGRAPHER: We have been on the record</p> <p>5 for 2 hours and 32 minutes.</p> <p>6 MR. MOUGEY: 2-1/2 hours. Thank you. We will</p> <p>7 take a 45-minute lunch. So, it means, let's just</p> <p>8 come back in at 1:00. How's that?</p> <p>9 MR. HOUTZ: We'll back at 1:00.</p> <p>10 MR. MOUGEY: Thank you.</p> <p>11 THE VIDEOGRAPHER: We are off the record at</p> <p>12 12:13 p.m.</p> <p>13 (WHEREUPON, a recess was had</p> <p>14 from 12:13 to 1:05 p.m.)</p> <p>15 THE VIDEOGRAPHER: We are back on the record</p> <p>16 at 1:05 p.m.</p> <p>17 BY MR. MOUGEY:</p> <p>18 Q. Ms. Polster, you're familiar with Edward</p> <p>19 Bratton, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And he's a member of your team, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And he came on with Pharmaceutical</p> <p>24 Integrity in the beginning of 2013, correct?</p>	<p style="text-align: right;">Page 148</p> <p>1 A. No, we focused on the system that we</p> <p>2 were using at the time for suspicious order</p> <p>3 monitoring.</p> <p>4 Q. On Day 1, it didn't -- was there a</p> <p>5 Day 1, when Pharmaceutical Integrity started?</p> <p>6 A. Well, the task force was doing its work</p> <p>7 and then my team started getting hired and brought</p> <p>8 in and then they handed over the suspicious order</p> <p>9 monitoring to my team once I had people in place.</p> <p>10 Q. But the question I asked you was: You</p> <p>11 all focused on the previous system. You said no,</p> <p>12 we were using the system that was in place.</p> <p>13 So, was there a clean line of on Monday</p> <p>14 morning we began with our system and there was no</p> <p>15 more previous system?</p> <p>16 A. No, but there was tweaks along the</p> <p>17 system. So, I need to understand which system you</p> <p>18 were talking about, but --</p> <p>19 Q. Actually I need to understand which</p> <p>20 system you're talking about.</p> <p>21 A. Okay.</p> <p>22 Q. So, when you say there are tweaks, the</p> <p>23 previous system, our system, I'm not quite</p> <p>24 understanding. Okay?</p>
<p style="text-align: right;">Page 147</p> <p>1 A. Yes.</p> <p>2 Q. And I think you mentioned that your</p> <p>3 group was busy with its charge of working on issues</p> <p>4 related to Walgreens as a distributor and a</p> <p>5 pharmacy ensuring that it was in compliance with</p> <p>6 federal regs and statutes, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And the frequent meetings continued as</p> <p>9 you brought new people on board like Mr. Bratton,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And Mr. Bratton was part of the process</p> <p>13 of getting up to speed about what was necessary to</p> <p>14 fill your group's mission, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And just like all the members of your</p> <p>17 group, you all had regular meetings covering the</p> <p>18 topics that were necessary for you all to ensure</p> <p>19 Walgreens was in compliance as a distributor,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And part of the topic of those meetings</p> <p>23 was that you all looked at Walgreens' previous</p> <p>24 system before your group was in place, correct?</p>	<p style="text-align: right;">Page 149</p> <p>1 A. Okay.</p> <p>2 Q. The basis for the system that</p> <p>3 Pharmaceutical Integrity used was the algorithm</p> <p>4 that Wayne Bancroft wrote, correct?</p> <p>5 A. Yes.</p> <p>6 Q. How about we'll call that the "Wayne</p> <p>7 Bancroft algorithm"?</p> <p>8 A. Okay.</p> <p>9 Q. Okay. And that was the foundation of</p> <p>10 the system from 2008 all the way until Walgreens</p> <p>11 stopped distributing, correct?</p> <p>12 MR. HOUTZ: Object to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I don't know.</p> <p>15 BY MR. MOUGEY:</p> <p>16 Q. What part of that do you not know, from</p> <p>17 the 2008 part?</p> <p>18 A. Correct.</p> <p>19 Q. So, how about from 2012 when you became</p> <p>20 part of the controlled substance task force until</p> <p>21 Walgreens stopped distributing, you're comfortable</p> <p>22 that the Bancroft algorithm was the foundation?</p> <p>23 A. Yes.</p> <p>24 Q. And there were, I think in your words,</p>

<p style="text-align: right;">Page 150</p> <p>1 tweaks to the Bancroft algorithm from the</p> <p>2 controlled substance task force until Walgreens</p> <p>3 stopped distributing. Is that fair?</p> <p>4 A. We're still using that system today, but</p> <p>5 yes.</p> <p>6 Q. Right. But you're not distributing</p> <p>7 today, correct?</p> <p>8 A. Correct.</p> <p>9 Q. So, that's why in my questions, so I</p> <p>10 didn't have the confusion and the objections from</p> <p>11 Mr. Les over there about continuing past the time</p> <p>12 you were no longer distributing.</p> <p>13 Walgreens stopped distributing late</p> <p>14 2014. Fair enough?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So, I'm talking about from when</p> <p>17 you joined the task force in September of 2012 to</p> <p>18 the point when Walgreens stopped distributing in</p> <p>19 late '14, the Bancroft algorithm was the</p> <p>20 foundation?</p> <p>21 A. Yes.</p> <p>22 Q. Is that fair?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And there were modifications or</p>	<p style="text-align: right;">Page 152</p> <p>1 does not have previous sales for that particular</p> <p>2 drug, the system would not order in quantities as</p> <p>3 readily as what they would need it.</p> <p>4 Q. Okay.</p> <p>5 A. So, for example, if a new manufacturer</p> <p>6 became our primary for a certain NDC number, if we</p> <p>7 didn't make a tweak in the system, none of the</p> <p>8 stores would have gotten more than one bottle even</p> <p>9 if they started dispensing it.</p> <p>10 So, we would have to make a tweak in the</p> <p>11 system in order to basically move the reordering</p> <p>12 from the old NDC number to the new NDC number.</p> <p>13 Q. Okay. Can I stop you there? Am I</p> <p>14 interrupting anything?</p> <p>15 A. Yeah.</p> <p>16 Q. So, what I'd like you to do is kind of</p> <p>17 give me a laundry list that you can remember about</p> <p>18 the modifications that were made.</p> <p>19 A. Sure.</p> <p>20 Q. Or the controls.</p> <p>21 A. Sure.</p> <p>22 Q. And then we'll drill down a little bit</p> <p>23 more specifically.</p> <p>24 So, what would you call what you just</p>
<p style="text-align: right;">Page 151</p> <p>1 tweaks made along the way, correct?</p> <p>2 A. Yes.</p> <p>3 Q. Now, so, when we were talking about what</p> <p>4 system's in place, the core is Mr. Bancroft's</p> <p>5 algorithm?</p> <p>6 A. Okay.</p> <p>7 Q. All right. So, was part of the mission</p> <p>8 of the controlled substance task force to look at</p> <p>9 the algorithm that was in place from Mr. Bancroft</p> <p>10 and add or tweak or modify?</p> <p>11 A. Not exactly in terms of looking at the</p> <p>12 algorithm.</p> <p>13 Q. That the algorithm itself wasn't</p> <p>14 changed, but there were kind of add-ons?</p> <p>15 A. Yes.</p> <p>16 Q. Some controls. Is that fair?</p> <p>17 A. Yes.</p> <p>18 Q. So, is one of those controls -- why</p> <p>19 don't you just walk me through what your</p> <p>20 understanding or your recollection of the controls</p> <p>21 were?</p> <p>22 A. So, the -- the system is designed to do</p> <p>23 a historical lookback by NDC number, and one of the</p> <p>24 controls that is put in place is that if the store</p>	<p style="text-align: right;">Page 153</p> <p>1 described? The new manufacturer, is that --</p> <p>2 A. Yeah, yeah. New manufacturer --</p> <p>3 Q. New manufacturer.</p> <p>4 A. -- was a tweak.</p> <p>5 Q. What was another tweak?</p> <p>6 A. Ensuring that every order went through</p> <p>7 the system first before a store could get a product</p> <p>8 regardless of where they were getting it from.</p> <p>9 Q. Okay. So, whether they got it from</p> <p>10 another vendor or interstore, it had to go through</p> <p>11 the algorithm?</p> <p>12 A. Correct.</p> <p>13 Q. So, what do you want to call that, that</p> <p>14 the algorithm reviewed all controlled substance</p> <p>15 orders?</p> <p>16 A. Yes.</p> <p>17 Q. Is that fair?</p> <p>18 A. Yep.</p> <p>19 Q. Okay. So, what other modifications?</p> <p>20 A. I don't remember. Those are -- those</p> <p>21 were the main ones that come to mind.</p> <p>22 Q. How about the modification about that --</p> <p>23 that was pre-you -- that an order that was flagged</p> <p>24 by the Bancroft algorithm was cut?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. You mean not shipped?</p> <p>2 Q. Yes, ma'am.</p> <p>3 A. What about it?</p> <p>4 Q. That's pre-you, though, wasn't it?</p> <p>5 A. Yes.</p> <p>6 Q. Yes. When you got there, if an order</p> <p>7 was flagged by the Bancroft algorithm, it was -- is</p> <p>8 the word "cut"? Are you okay with that? Or what's</p> <p>9 the right terminology you'd use?</p> <p>10 A. It was not shipped at all.</p> <p>11 Q. Not shipped?</p> <p>12 A. Right.</p> <p>13 Q. But the store was allowed to order up to</p> <p>14 that threshold, correct? They had to enter a new</p> <p>15 order in?</p> <p>16 A. Yes.</p> <p>17 Q. So, it was not shipped, but then the</p> <p>18 store could reenter an order up to the ceiling</p> <p>19 level, correct?</p> <p>20 A. Yes, but the store didn't have</p> <p>21 visibility into that ceiling level.</p> <p>22 Q. I understand.</p> <p>23 A. Okay.</p> <p>24 Q. I understand that's your drumbeat.</p>	<p style="text-align: right;">Page 156</p> <p>1 made based on that new information.</p> <p>2 Q. So, as you learned more and as you got</p> <p>3 up to speed, there were a different -- there were</p> <p>4 additional controls that needed to be implemented?</p> <p>5 A. There were -- there were changes that</p> <p>6 needed to be made, yes.</p> <p>7 Q. All right. And it didn't all happen at</p> <p>8 once --</p> <p>9 A. Right.</p> <p>10 Q. -- is what you're saying. It was over a</p> <p>11 period of time?</p> <p>12 A. Right.</p> <p>13 Q. And when -- and I'm trying not to use --</p> <p>14 I'm trying to use the word you feel comfortable</p> <p>15 with. Is control, an additional control? What</p> <p>16 term would you use?</p> <p>17 You didn't like the modification to the</p> <p>18 algorithm. So, I'm trying to find a word you're</p> <p>19 comfortable with.</p> <p>20 A. Yeah, controls, that's fine.</p> <p>21 Q. Is control okay?</p> <p>22 A. Yeah.</p> <p>23 Q. That there were issues that your team</p> <p>24 was identifying along the way, they were trying to</p>
<p style="text-align: right;">Page 155</p> <p>1 A. Yeah.</p> <p>2 Q. But right now if the order wasn't</p> <p>3 shipped, they were allowed to ship up to that</p> <p>4 ceiling level, correct?</p> <p>5 A. Sure.</p> <p>6 Q. Okay. Now, your team knew that there</p> <p>7 were modifications that needed to be made to the</p> <p>8 Bancroft algorithm, correct?</p> <p>9 Actually, you corrected me before about</p> <p>10 the Bancroft. Let's use your language, whatever</p> <p>11 you feel comfortable with.</p> <p>12 So, rather than me saying changing the</p> <p>13 algorithm, how about your team was aware that there</p> <p>14 were -- that controls were needed to ensure that</p> <p>15 all orders were going through the Walgreens</p> <p>16 suspicious order monitoring system?</p> <p>17 MR. HOUTZ: Object to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I don't agree when you say they were</p> <p>20 aware.</p> <p>21 BY MR. MOUGEY:</p> <p>22 Q. Okay.</p> <p>23 A. I think as time progressed, things would</p> <p>24 pop up and then we would ask for a change to be</p>	<p style="text-align: right;">Page 157</p> <p>1 find solutions and then implementing a control to</p> <p>2 kind of close --</p> <p>3 A. The goal was to have consistency on how</p> <p>4 the stores would order; and as things popped up</p> <p>5 that created confusion for patient care and was</p> <p>6 happening at store level, then we made adjustments</p> <p>7 along the way to, you know, decrease any type of</p> <p>8 confusion a store would have in getting a product.</p> <p>9 Q. Would you feel comfortable with the word</p> <p>10 that when Pharmaceutical Integrity started, that</p> <p>11 there were loopholes in the system that needed to</p> <p>12 be closed with additional controls to ensure</p> <p>13 compliance with Walgreens' duties as a distributor?</p> <p>14 A. Those -- I think there were gaps. I</p> <p>15 don't know about loopholes.</p> <p>16 Q. Let's use the word "gaps." I'm</p> <p>17 comfortable with "gaps."</p> <p>18 A. Okay.</p> <p>19 Q. So, there were gaps in Walgreens'</p> <p>20 policies and procedures with its distribution of</p> <p>21 controlled substances that your team was</p> <p>22 identifying and addressing throughout '13 and early</p> <p>23 '14?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 158</p> <p>1 Q. Now, would you agree that those gaps 2 enabled some stores to have significant growth in 3 shipments of Schedule II and Schedule III opiates 4 without being flagged and stopped as part of 5 Walgreens' system? 6 A. No. 7 Q. Let me hand you what we're going to mark 8 as P-WAG-1988, Bates No. WAGMDL429440. 9 And I apologize. I'm going to change. 10 Shift gears. It's P-WAG-1146, WAGMDL21425. 11 I will hand you what we will mark as 12 Polster 8. 13 (WHEREUPON, a certain document was 14 marked as Walgreens-Polster Exhibit 15 No. 8: 8/9/13 e-mail string; 16 WAGMDL00021425 - 00021427.) 17 BY MR. MOUGEY: 18 Q. Mr. Bratton is a manager in 19 Pharmaceutical Integrity, correct? 20 A. Yes. 21 Q. And has remained in Pharmaceutical 22 Integrity for quite some time, correct? 23 A. Yes. 24 Q. And had an area of significant</p>	<p style="text-align: right;">Page 160</p> <p>1 Did I read that correctly? 2 A. Yes. 3 Q. And this was at the time that 4 Mr. Bratton had been in your group for several 5 months in Pharmaceutical Integrity, correct? 6 A. Yes. 7 Q. And he was managing an entire geographic 8 region in Pharmaceutical Integrity, correct? 9 A. Yes. 10 Q. He was part of the process for reviewing 11 suspicious orders, correct? 12 A. Yes. 13 Q. He was part of the process in looking at 14 overrides, correct? 15 A. Yes. 16 Q. He was part of the process of 17 identifying gaps and specific controls to fill 18 those gaps, correct? 19 A. Yes. 20 Q. And based upon his work and what he 21 relayed to Ms. Patel is that the lack of those 22 controls allowed runaway growth for drugs like 23 OxyContin. Do you see that? 24 A. I see what he wrote, but I don't know</p>
<p style="text-align: right;">Page 159</p> <p>1 responsibility in Pharmaceutical Integrity, 2 correct? 3 A. Yes. 4 Q. And was an important component of the 5 Pharmaceutical Integrity team, correct? 6 A. Yes. 7 Q. And was part of the educational process 8 from the beginning of Pharmaceutical Integrity 9 throughout the summer of 2013, correct? 10 A. Yes. 11 Q. And this is -- what I put in front of 12 you is an e-mail from Mr. Bratton dated August 19, 13 2003 -- I'm sorry -- 2013. 14 Do you see that? 15 A. Yes. 16 Q. And I'm at the very top of the e-mail in 17 the second paragraph. 18 And Mr. Bratton, when speaking with 19 another Walgreens employee or exchanging e-mails, 20 relayed to her that "The previous system would 21 continue to send additional product to the store 22 without limit or review which made possible the 23 runaway growth of dispensing of products like 24 oxycodone."</p>	<p style="text-align: right;">Page 161</p> <p>1 what he meant. 2 Q. Yes, ma'am. It's confusing, isn't it, 3 where he says, "The previous system would continue 4 to send additional product to the store without 5 limit or review which made possible the runaway 6 growth of dispensing of products like oxycodone." 7 It's crystal clear what he meant, is it 8 not? 9 A. There were a lot of tweaks to the system 10 and the system got changed many times. So, yeah, 11 he is correct that the system was designed and 12 built way back in the day to ensure that the store 13 was able to get the product in that they needed to 14 take care of their patients. 15 Q. Yes, ma'am. And the lack of controls up 16 and to when your group took over in '13 allowed for 17 runaway growth of drugs like OxyContin, correct? 18 A. I don't -- I don't agree with his -- 19 with his language there. 20 Q. That was one of your managers in your 21 group responsible for an entire geographic region, 22 that was his assessment, correct? 23 A. That was his words. 24 Q. I hand you -- it's P-WAG-5140, Bates</p>

<p style="text-align: right;">Page 162</p> <p>1 No. 77015 and Polster 9.</p> <p>2 (WHEREUPON, a certain document was</p> <p>3 marked as Walgreens-Polster Exhibit</p> <p>4 No. 9: 7/2/12 e-mail with</p> <p>5 attachment; WAGMDL00077015 -</p> <p>6 00077023.)</p> <p>7 BY MR. MOUGEY:</p> <p>8 Q. Now, this is an e-mail from Raymond</p> <p>9 Stukel, right? Did I pronounce that correct?</p> <p>10 A. Yeah.</p> <p>11 Q. And Mr. Stukel, as you just identified,</p> <p>12 was the gentleman that was in loss prevention and</p> <p>13 using the Tableau interface to review Walgreens'</p> <p>14 data, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the subject is "Discussion of</p> <p>17 ceiling limits."</p> <p>18 Do you see that?</p> <p>19 A. Yep.</p> <p>20 Q. And the ceiling limits are part of the</p> <p>21 Bancroft algorithm that was used in Pharmaceutical</p> <p>22 Integrity, correct?</p> <p>23 A. Yes.</p> <p>24 Q. That was just -- that was one of the</p>	<p style="text-align: right;">Page 164</p> <p>1 document and see if this kind of comports with your</p> <p>2 understanding of the system that you inherited in</p> <p>3 Pharmaceutical Integrity. Okay?</p> <p>4 A. Okay.</p> <p>5 Q. All right. So, the date, as we just</p> <p>6 went through, is July 12th -- I'm sorry --</p> <p>7 July 2012.</p> <p>8 Do you see that?</p> <p>9 A. No.</p> <p>10 Q. Very first page in the e-mail. I'm</p> <p>11 sorry.</p> <p>12 A. Oh, sorry. Yeah. I was looking at</p> <p>13 June 22. Okay.</p> <p>14 Q. So, this is approximately 60 days before</p> <p>15 the controlled substance task force that you're a</p> <p>16 part of when you start attending the frequent</p> <p>17 meetings, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And this is what I could find as kind of</p> <p>20 the last kind of culmination, right when you start,</p> <p>21 of what the system looked like. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. So, what I want you to do is tell me</p> <p>24 yes, this kind of comports with my understanding or</p>
<p style="text-align: right;">Page 163</p> <p>1 lingos, ceiling limits and thresholds were two of</p> <p>2 the tests, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And ceiling limits replaced the</p> <p>5 frequency?</p> <p>6 A. I think you're right there, but I'm not</p> <p>7 100% sure.</p> <p>8 Q. You're not sure. Pre-Tasha Polster?</p> <p>9 A. Right.</p> <p>10 Q. How does that sound?</p> <p>11 A. Yeah, that sounds great.</p> <p>12 Q. Okay. So, Mr. Stukel is sending out an</p> <p>13 e-mail to Mr. Merritello, Kristie Provost, Wayne</p> <p>14 Bancroft and Ferdinand Dungca.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And if you would turn to Bates No. 16,</p> <p>18 this appears to be an overview of the controlled</p> <p>19 substance order review web-based exception report,</p> <p>20 correct?</p> <p>21 A. That's what it appears. I have never</p> <p>22 seen this document before.</p> <p>23 Q. I understand. So, what I want to --</p> <p>24 what I want you to do is help me look at this</p>	<p style="text-align: right;">Page 165</p> <p>1 my recollection of the -- of the Bancroft algorithm</p> <p>2 and the controls in place when I inherited it. Is</p> <p>3 that -- is that fair?</p> <p>4 A. Sure.</p> <p>5 Q. Okay. So, underneath the first top of</p> <p>6 Bates No. 16, under "Ordering" do you see those</p> <p>7 kind of wheels or gears, A, B and C.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And then off on the side it's</p> <p>11 referencing phases and there is phase 3, phase 4</p> <p>12 and phase 5. Okay? Do you see that in the first</p> <p>13 box?</p> <p>14 A. Oh, yes, yes.</p> <p>15 Q. Okay. So, phase 3, it says "In QA,"</p> <p>16 which I would mean quality assurance?</p> <p>17 A. Yeah, testing.</p> <p>18 Q. Testing.</p> <p>19 "Phase 4: In design."</p> <p>20 And then you see in the upper right-hand</p> <p>21 side, "Phase 5: In design, ceilings trump step A</p> <p>22 below if/when necessary."</p> <p>23 And you recall that ceilings were</p> <p>24 ultimately put in place, correct?</p>

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REDACTED

1 A. Yes.
2 Q. Okay. So, if you go to A, "Ongoing
3 Controlled Substance Order Review Logic includes
4 PSE."

5 Do you see that?

6 A. Yes.

7 Q. All right. And then B is "Manual Line
8 Limits for select drugs" and C is "Automated
9 Ceilings."

10 Did I get all that?

11 A. Yes.

12 Q. And off to the left it says, "Interim
13 solution until automated ceilings are deployed."
14 Correct?

15 A. I see that here.

16 Q. Now, when you took over in late '12,
17 early '13, were the automated solutions deployed?

18 MR. HOUTZ: Object on foundation.

19 BY THE WITNESS:

20 A. I don't know.

21 BY MR. MOUGEY:

22 Q. You don't know. Okay. So, the
23 right-hand side -- do you know what automated
24 ceilings are?

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1 A. No.

2 Q. Do you know what ceilings are?

3 A. Yes.

4 Q. What is your understanding of what a
5 ceiling is?

6 A. A ceiling is the amount of drug that a
7 store can have at a -- at a point in time.

8 Q. So, when it hits that point in time, and
9 you and I discussed this earlier, that order is
10 canceled and a pharmacy is allowed to enter an
11 order up to the ceiling limit, correct?

12 MR. HOUTZ: Object to form and foundation.

13 BY THE WITNESS:

14 A. You're making generalizations and you're
15 not really accurate. So, can I tell you how it
16 worked?

17 BY MR. MOUGEY:

18 Q. Go ahead. You educate me on how this
19 works.

20 A. All right. So, yes, if the store hit
21 the ceiling or maybe the store didn't hit the
22 ceiling and they tried to order above the ceiling,
23 the order never got shipped. But they wouldn't
24 know what the ceiling was.

REDACTED



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